

**JPA File No.: JPA 05-041**  
A.G. Contract No.: KR05-0993TRN  
Project No.: TEA-NNA-0(010)  
Section: Chevelon Creek Bridge  
Project: Rehabilitation of Bridge  
**TRACS No.: SL521 01C**  
**Budget Source Item No.: Local**

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE NAVAJO COUNTY

**THIS AGREEMENT** is entered into this date November 18, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the NAVAJO COUNTY, acting by and through its CHAIRPERSON and BOARD OF SUPERVISORS (the "County").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes § 11-251 and 11-951 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.
3. Congress has authorized appropriations for, but not limited to, the twelve eligible transportations enhancement activities.
4. The project lies within the boundary of the County and has been selected by the County; the survey of the project has been completed; and the plans, estimates and specifications will be prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for its approval.
5. The County, in order to obtain Federal funds for the construction of the Project, is willing to provide County funds to match Federal funds in the ratio required or as finally fixed and determined by the County, State and FHWA, including actual construction engineering (CE) and administration costs.
6. The interest of the State for this Project is in the acquisition of Federal funds for the use and benefit of the County and is authorized as the designated agent. Funds expended for the Project, are authorized by reason of Federal law and regulations.

NO. 27838  
Filed with the Secretary of State  
Date Filed: 11-18-05

Jennie K. Brewer  
Secretary of State

By: [Signature]

7. The work embraced in this Agreement is for the rehabilitation of the Chevelon Creek Bridge, hereinafter referred to as the "Project". Rehabilitation of the bridge will include, but is not limited to, replacing the existing deck, increasing load capacity to 20 tons and installing protective railing, removing lead paint and repainting the bridge. Protective barriers will also be installed on the approaches to the bridge. The estimated costs are as follows:

<b>Total Estimated Design Costs (TRACS No.: SL521 01D, 02D)</b>	<b>\$ 60,000.00</b>
Estimated Federal Aid Funds @ 94.3%	\$ 56,580.00
Estimated County Funds @ 5.7%	\$ 3,420.00
<b>Total Estimated Construction Costs (TRACS No.: SL521 01C)</b>	<b>\$430,000.00</b>
Estimated Federal Aid Funds @ 94.3%	\$405,490.00
Estimated County Funds @ 5.7%	<u>\$ 24,510.00</u>
<b>*Total Estimated Cost of the Project</b>	<b>\$490,000.00</b>

\*(Includes construction, construction engineering administration, and incidentals)

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

## **II. SCOPE OF WORK**

### 1. The State shall:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for construction.

b. Upon approval by FHWA, receipt of the County's matching funds; and with the aid and consent of the County and the FHWA, the State will proceed to advertise for, receive and open bids subject to the concurrence of FHWA and the County, enter into a contract(s) with a firm(s) to whom the award is made for the construction of the Project. Such Project to be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans, Special Provisions, and Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation (ADOT).

c. On behalf of the County, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and request the maximum authorized Federal funds available, including construction engineering and administration costs. Should costs exceed the maximum Federal funds available, it is understood and agreed that the County will be responsible for any overage.

d. No more than monthly and within thirty-days (30) upon receipt and approval of an invoice from the County, the State shall reimburse the County for the direct actual costs **for design** of the Project per the ratios indicated above.

e. Not be obligated to maintain said Project, should the County fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

### 2. The County shall:

a. Upon execution of this Agreement, does hereby designate the State as authorized agent for the County and within thirty-days (30) prior to the State advertising the Project, shall deposit funds with the State in the amount determined to be necessary to match Federal funds in the ratio required, for the estimated construction costs of the Project.

b. After opening of the bids, but prior to the award, the County shall deposit funds with the State to cover any cost overruns, that is, the difference between the amount indicated above for construction and the lowest bid.

c. Prior to bid, provide to the State, the design plans, specifications and such other documents and services, in ADOT format, required for construction bidding and construction of the Project. Incorporate or resolve State review comments. The final plans; specifications and estimate have to be acceptable to the State before the State bids the Project.

d. Be obligated to incur any expenditure should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent of Scope of Work requested by the County. Such changes require the prior approval of the State.

e. Certify that all necessary rights-of-way have been or will be acquired prior to the advertisement for bid and shall be removed from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, and hereby certifies that all obstructions and encroachments have been or will be removed from there prior to the start of Project construction.

f. Not permit or allow any encroachments upon, or private use of, except those authorized by permit, of the right-of-way. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use.

g. Upon completion of construction provide for, at its own cost, and as an annual item in its budget, perpetual and proper maintenance of the Chevelon Creek Bridge, including repainting when necessary.

h. Conduct all maintenance work in a manner to minimized traffic congestion and interference with through-traffic. All traffic control will meet the requirements of the most recent Arizona Department of Transportation's "Uniform Traffic Control Manual".

### **III. MISCELLANEOUS PROVISIONS**

1. The State assumes no financial obligation or liability under this Agreement. The County assumes full responsibility for design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined to securing Federal aid; and that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County. The County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all costs and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance or negligent performance of any provisions of this Agreement by the State, any of its departments, agencies, officers or employees, the County or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorney's fees.

2. The cost of the construction and the construction engineering work covered by this Agreement is to be borne by FHWA and the County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this Agreement. Therefore, County agrees to furnish and provide the difference between the total cost of the work provided for in this Agreement and the amount of Federal aid received.

3. This Agreement shall remain in full force and effect until completion of the work; provided however, that any provisions in this Agreement for maintenance shall be perpetual, unless assumed by another governmental agency.

4. This Agreement shall become effective upon filing with the Secretary of State.

5. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

6. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

7. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

8. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

9. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

10. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue – Mail Drop 616E  
Phoenix, AZ 85007  
(602) 712-7525

Navajo County  
Attn: Richard Young, P.E.  
P.O. Box 668  
Holbrook, AZ 86025  
(928) 524-4100

11. Pursuant to Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.


---

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**NAVAJO COUNTY**

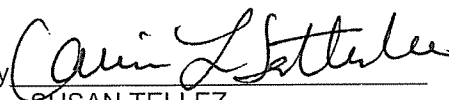
By   
JERRY BROWNLOW  
Chairman, Board of Supervisors District V

ATTEST:

By   
JAMES G. JAYNE  
Clerk of the Board

**STATE OF ARIZONA**

Department of Transportation

By   
SUSAN TELLEZ  
Contract Administrator

JPA 05-041

APPROVAL OF THE NAVAJO COUNTY

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 28<sup>th</sup> day of October, 2005.

  
County Attorney

RESOLUTION NO. ~~68~~ -05

A RESOLUTION OF THE BOARD OF SUPERVISORS OF  
NAVAJO COUNTY, ARIZONA APPROVING AN INTERGOVERNMENTAL BETWEEN THE  
STATE OF ARIZONA AND NAVAJO COUNTY FOR THE CHEVELON CREEK BRIDGE  
PROJECT NO: TEA-NNA-0(010)

**WHEREAS**, A.R.S. § 28-401 authorizes the State of Arizona ("State") to enter into an Intergovernmental Agreement (IGA") with Navajo County ("County"), a political subdivision of the State, for the purposes set forth therein; and

**WHEREAS**, A.R.S. § § 11-251 and 951 authorize the County to enter into the IGA; and

**WHEREAS**, Congress of the United States has authorized appropriations for use by the States and its political subdivisions for eligible transportation enhancement construction projects; and,

**WHEREAS**, the Chevelon Creek Bridge Rehabilitation Project ("Project"), located within the boundaries of the County, is eligible for and has been selected by the County for participation in a transportation enhancement project; and,

**WHEREAS**, the survey of the Project has been completed by the County, and the plans, estimates and specifications will be timely prepared for submission to the State and to the Federal Highway Administration ("FHWA") in the manner required by law; and

**WHEREAS**, the County, in order to obtain available federal funding for the construction of the Project, shall appropriate County funds to match federal funds in the ratio required and determined by the County, State and FHWA, collectively, including the construction engineering ("CE") and administrative costs of the Project; and

**WHEREAS**, the Project is of substantial benefit to the health, safety and welfare of the residents of the County, and the acquisition of federal funding of a portion of the cost of the Project, authorized by law for this purpose, is a significant mitigation of the cost of the Project to the County.

**NOW, THEREFORE, BE IT RESOLVED:** that the County shall enter into IGA with the State of Arizona for the Rehabilitation of the Chevelon Creek Bridge, project number TEA-NNA-0(010), in a form approved by the Office of the Navajo County Attorney, and shall timely perform all acts necessary to obtain the federal financing for the project for transportation enhancement projects as described herein.

**PASSED, ADOPTED AND APPROVED** at Holbrook, Arizona on September 19, 2005.

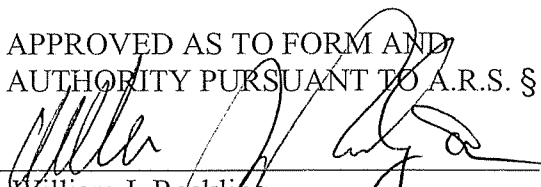
**NAVAJO COUNTY BOARD OF SUPERVISORS**

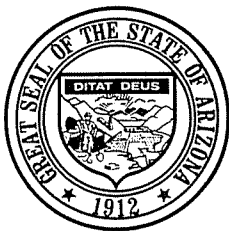
  
Jerry Brownlow, Chairman of the Board

ATTEST:

  
Darlene Fraley, Deputy Clerk of the Board

APPROVED AS TO FORM AND  
AUTHORITY PURSUANT TO A.R.S. § 11-952:

  
William J. Reckling  
Deputy Navajo County Attorney



STATE OF ARIZONA  
OFFICE OF THE ATTORNEY GENERAL  
CIVIL DIVISION  
TRANSPORTATION SECTION

Susan E. Davis  
Assistant Attorney General

Direct: 602-542-8855  
Fax: 602-542-3646

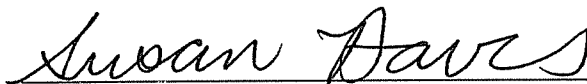
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR05-0993TRN (**JPA 05-041**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED 11-10, 2005.

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:dgr  
Attachment  
934172